

Notice of Allowability	Application No.	Applicant(s)	
	09/233,860	HUTCHINSON ET AL.	
	Examiner	Art Unit	
	Thomas H. Stevens	2123	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/22/04.
2. ☒ The allowed claim(s) is/are 1-3,5-8,10-13,15,16 and 18-24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____ |
|---|---|

DETAILED ACTION

1. Claims 1-3, 5-8,10-13,15,16-24 were examined.
2. Claims 4,9,14,17 were cancelled.

Section I: New Examiner

3. Tom Stevens is presiding over the prosecution in place of William Thomson.

Section II: Allowance

4. Claims 1-3, 5-8,10-13,15,16-24 are allowed.
5. In deference to the Board's legal determination and findings of fact that: 1) claims 11 and 12 are not indefinite under either 35 U.S.C. 1 12 2nd or 4th and 2) that the teachings of the prior art are not functionally equivalent, not capable of performing the recited functional limitations and are not anticipatory of the same limitations as recited within the Applicant's claims and 3) that these references do not meet the standard of the preponderance of evidence test; the pending claims 1-3, 5-8, 10-13, 15, 16, and 18-24 are allowed.
6. The following is Claims 1-3, 5-8, 10-13, 15, 16, and 18-24 are allowed in deference to the rationale and findings as provided by the reversal of the primary examiner by the Board of Patent Appeals. The Board rendered the legal determination and finding of fact that the prior art which was positively asserted against the instant applicant with detailed analysis by the examiner did not meet the legal standard for proving or providing a solid basis for a determination of anticipation and inferentially the

prior art as evidence does not meet the standard of a preponderance of evidence test and moreover does not teach the equivalent or same invention as recited in claims 1-3, 5-8, 10-13, 15, 16, and 18-24.

Specifically, the prior art of Barroux (850) and de la Salle (420), were individually asserted under specific sections of 35 U.S.C. 102. The legal determination and findings of fact by the Board is that the prior art does not teach "containing node-identification information for the client node that includes (i) a current network interface card value for the node, referred to as a NIC address value, and (ii) a former NIC address value". Therefore it is a factual finding of the Board that neither unique network IDs nor MAC addresses specific to client nodes that are stored in a database as historical data with time stamps to track changes in the nodes (including client nodes) within a network over time as taught in the prior art teachings constitutes the same or equivalent teaching as storing a current NIC address and a former NIC address in the node as recited in the claims, see claim 13 for example. Therefore the prior art rejections have been overcome by the Board's decision. Moreover, a legal determination was made by the Board, that the Examiner's detailed analysis of the claim language did not provide evidence as to why one of ordinary skill level would not be able to understand the claim language as recited in claims 11 and 12. Therefore claims 11 and 12 are not indefinite and the prior rejections are overcome based upon the Board's decision.

7. In deference to the Board of Patent Appeal's legal determinations and findings of fact that more likely than not the limitations as recited in claims 1-3, 5-8, 10-13, 15, 16,

Art Unit: 2123

and 18-24 are not functionally equivalent to those taught in the prior art, that the prior art is not capable of performing the recited functional limitations and that the prior art is not anticipatory of the claimed invention. In the instant case, taking into consideration the nature of this art, the skill level required and affording proper deference to the legal determinations and findings of fact by the Board, one would need some impetus direction to modify the individual teachings to result in the device, method or program-product as recited in the claims; no such motivation was found, in view of the findings of the Board. It would be counter intuitive to provide motivation to render the claimed invention obvious in view of the Board's legal determination and findings of fact regarding of the prior art teachings.

Examiner's Amendment

8. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Hugh R. Kress (Registration number 36,574), on, 2/3/06.

Claim 2, line 1 the phrase "claim 2" has been changed to -- claim 1 --.

Art Unit: 2123

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

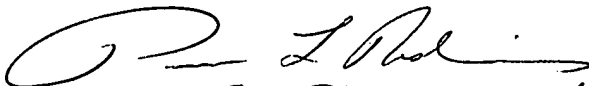
Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Tom Stevens whose telephone number is 571-272-3715, Monday-Friday (8:00 am- 4:30 pm EST).

If attempts to reach the examiner by telephone are unsuccessful, please contact examiner's supervisor Mr. Leo Picard ((571) 272-3749). The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.. Answers to questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) (toll-free (866-217-9197)).

February 4, 2006


Paul L. Rodriguez 2/6/06
Primary Examiner
Art Unit 2125

TS